IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.2817 OF 2006

Anand Daji Shelar ..Petitioner.

Vs.

M/s. Packages Gasket Products & Ors. ..Respondents.

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Mr. Vinod Shetty for the Petitioner.
Mr. Major Gujar i/b C.R. Naidu & Co. for Respondents 1 and 3.

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CORAM: DR. D.Y. CHANDRACHUD, J.

13th November, 2006.

P.C. :

The order passed by the Industrial Court in exercise of its revisional jurisdiction, directing that the complaint would stand dismissed against Respondents 2 to 7 was in accord with the law as interpreted by the Supreme Court in **Sarva Shramik Sangh v. M/s. Indian Smelting and Refining Co. Ltd.**[1] It is now a settled principle of law that the jurisdiction to entertain a complaint under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 would exist only when the relationship of employer and employee is undisputed or indisputable. The complaint proceeded on the basis that the

1 AIR 2004 SC 269.

Petitioner was employed by First Respondent by whom he was paid, but he was also required to do the work of certain other sister companies. The relationship of employer and employee with Respondents 2 to 7 could not be regarded as undisputed or indisputable. The question as to whether there existed a functional integrality between Respondent No.1 on the one hand and Respondents 2 to 7 would require evidence to be adduced and would form the subject matter of an adjudication in a reference under Section 10 of the Industrial Disputes Act, 1947. In the circumstances, the revisional Court was justified in coming to the conclusion that the complaint could not be maintained against Respondents 2 to 7 with whom the relationship of employer and employee was neither undisputed nor indisputable. In the circumstances, there is no warrant for the exercise of the writ jurisdiction under Article 226. The Petition is dismissed. The Labour Court, however, is requested to expedite the disposal of the complaint against the First Respondent and to endeavour to do so within a period of six months from today.